

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Thomas W. Widmer, Individually, Thomas W. Widmer as Executor of the Estate of Ann R. Widmer, as Successor Trustee of the J. Wesley Widmer Trust U/A/D 5/21/98, as Successor Trustee of the Ann R. Widmer Trust U/A/D 3/30/99, and as Successor Trustee of the J. Wesley Widmer Family Trust U/A/D 5/21/98, and Betty Widmer (Claimants) vs. Edward D. Jones & Co., L.P. d/b/a Edward Jones and Syrrrel C. Wilks (Respondents)

Case Number: 05-05424

Hearing Site: Cincinnati, Ohio

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Nature of the Dispute: Customers vs. Member and Associated Person

**REPRESENTATION OF PARTIES**

Claimants Thomas W. Widmer, Individually ("T. Widmer"), Thomas W. Widmer as Executor of the Estate of Ann R. Widmer ("Estate of A. Widmer"), as Successor Trustee of the J. Wesley Widmer Trust U/A/D 5/21/98 ("J. Widmer Trust"), as Successor Trustee of the Ann R. Widmer Trust U/A/D 3/30/99 ("A. Widmer Trust"), and as Successor Trustee of the J. Wesley Widmer Family Trust U/A/D 5/21/98 ("J. Widmer Family Trust"), and Betty Widmer ("B. Widmer") hereinafter collectively referred to as "Claimants": Robert J. Hollingsworth, Esq., and Susan R. Bell, Esq., Cors & Bassett, LLC, Cincinnati, OH.

Respondents Edward D. Jones & Co., L.P. d/b/a Edward Jones ("Edward Jones") and Syrrrel C. Wilks ("Wilks") hereinafter collectively referred to as "Respondents": Dennis K. Egan, Esq., and Brent W. Warner, Esq., Butzel Long, Bloomfield Hills, MI.

**CASE INFORMATION**

Statement of Claim filed on or about: October 21, 2005.

Amended Statement of Claim filed on or about: November 3, 2005.

T. Widmer signed the Uniform Submission Agreement: November 1, 2005.

Estate of A. Widmer signed the Uniform Submission Agreement: November 1, 2005.

J. Widmer Trust signed the Uniform Submission Agreement: November 1, 2005.

A. Widmer Trust signed the Uniform Submission Agreement: November 1, 2005.

J. Widmer Family Trust signed the Uniform Submission Agreement: November 1, 2005.

B. Widmer signed the Uniform Submission Agreement: November 1, 2005.

Statement of Answer filed by Respondents on or about: December 29, 2005.

Edward Jones signed the Uniform Submission Agreement: November 15, 2005.

Wilks signed the Uniform Submission Agreement: November 17, 2005.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, negligence, unsuitability, fraud, misrepresentations, fraudulent concealment, violations of State Securities Laws, violations of NASD Conduct Rules, breach of contract, respondeat superior, and failure to supervise. The causes of action relate to unspecified investments.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and Amended Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in an unspecified amount, attorneys' fees, costs, expert witness fees, production fees, accounting fees, forum fees, punitive damages, disgorgement of improperly generated commissions, pre-judgment and post-judgment interest, lost interest, and all other relief to which Claimants may be entitled.

Respondents requested dismissal of the Amended Statement of Claim in its entirety, costs, and expungement of this matter from Respondent Edward Jones and Respondent Wilks' CRD records.

### **OTHER ISSUES CONSIDERED AND DECIDED**

During the hearing Respondents orally renewed their Motion to Dismiss Claimants' Statement of Claim. The Panel heard all oral arguments on the renewed motion. After due deliberation, the Panel denied Respondents' Renewed Motion to Dismiss.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are denied in their entirety.
2. Respondents Edward Jones and Wilks' expungement requests are denied.
3. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

### **Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 250.00

### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Edward D. Jones & Co., L.P. d/b/a Edward Jones is a party.

Member Surcharge = \$ 1,500.00  
Pre-hearing Process Fee = \$ 750.00  
Hearing Process Fee = \$ 2,200.00

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with single arbitrator @ \$450/ session = \$ 450.00  
Pre-hearing conference: August 31, 2006 1 session

One (1) Pre-hearing session with Panel @ \$1,000.00/ session = \$ 1,000.00  
Pre-hearing conference: March 7, 2006 1 session

Seven (7) Hearing sessions with Panel @ \$1,000.00/ session = \$ 7,000.00  
Hearing Dates: September 12, 2006 1 session  
September 13, 2006 2 sessions  
September 14, 2006 2 sessions  
September 15, 2006 2 sessions

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Total Forum Fees = \$ 8,450.00

1. The Panel has assessed \$4,225.00 of the forum fees to Claimants, jointly and severally.
2. The Panel has assessed \$4,225.00 of the forum fees to Respondents, jointly and severally.

### **Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 4,225.00
Total Fees	= \$ 4,475.00
Less payments	= \$ 1,250.00
Balance Due NASD Dispute Resolution	= \$ 3,225.00

2. Respondent Edward Jones is solely liable for:

<u>Member Fees</u>	= \$	4,450.00
<u>Total Fees</u>	= \$	4,450.00
<u>Less payments</u>	= \$	4,450.00
Balance Due NASD Dispute Resolution	= \$	0.00

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$	4,225.00
<u>Total Fees</u>	= \$	4,225.00
<u>Less payments</u>	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	4,225.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

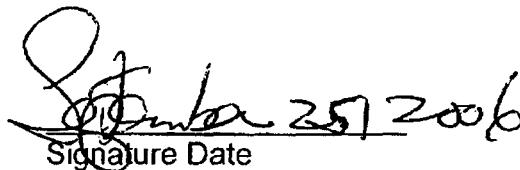
**ARBITRATION PANEL**

Carol M. Stoner, Esq.	-	Public Arbitrator, Presiding Chairperson
W. Sean Kelleher, Esq.	-	Public Arbitrator
Bert Cliff	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Carol M. Stoner, Esq.  
Public Arbitrator, Presiding Chairperson



Signature Date

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W. Sean Kelleher, Esq.  
Public Arbitrator

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Signature Date

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Bert Cliff  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

September 25, 2006  
Date of Service (For NASD Dispute Resolution use only)

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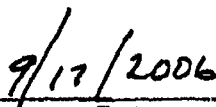
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